PIJSSL

Praxis International Journal of Social Science and Literature

A Peer-reviewed Multidisciplinary e-Journal with SJIR 2025 = 6.034 & ISSN: 2581-6675

Vol. 09, No. 03 (March 2026) **DOI:** 10.51879/PIJSSL/090311

Email: editor.pijssl@gmail.com | **Website:** www.pijssl.com

OPEN ACCESS

Rights and Justice for Women: A Feminist Reinterpretation

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Abstract

This paper examines whether the normative order recognizing women can be justified to them as equal subjects. It argues that while rights remain indispensable to feminist politics, their classical liberal formulation presupposes an abstract, disembedded subject that fails to capture women's lived realities. Drawing on Seyla Benhabib, the paper reconstructs rights through reciprocity, equal standing, and normative agency. It engages with Hannah Arendt, Nancy Fraser, and others to show that justice must address embodiment, dependency, and participation. The study contends that rights should not merely extend inclusion but ensure women's capacity to contest and co-author norms within cultural and political life, thereby grounding justice in concrete equality rather than abstract universality.

Keywords: *Feminist Theory, Rights and Justice, Gender Equality, Normative Agency, Reciprocity.*

Introduction

This paper examines whether the normative order in which women are recognized can be justified to them as equal subjects. It takes up the question by turning to rights and justice from a feminist perspective. It does not begin from the assumption that the established language of rights is either sufficient or disposable. Rights remain indispensable to feminist politics because they identify women as claimants rather than dependents, as persons rather than symbolic extensions of family, kinship, or community. Yet rights, in their classical and liberal formulations, have often presupposed a subject whose neutrality is difficult to sustain once feminist critique is taken seriously. The bearer of rights typically appears as autonomous, rational, self-possessed, and capable of entering public life without remainder. Feminist philosophy has repeatedly shown that this image is achieved through abstraction from embodiment, dependency, care, and the institutions through which actual persons are formed. The issue, then, is not whether women should have rights. It is whether the conceptual subject of rights, and the theories of justice built around it, can adequately account for women as concrete and equal subjects. Hence, this paper argues that while feminist critiques have exposed the limits of the liberal subject of rights, they have not sufficiently addressed how rights can be reconstructed to account for women as concrete subjects within cultural life. Drawing on Seyla Benhabib, the paper develops a framework grounded in reciprocity, equal standing and normative agency.

This paper approaches rights and justice as concepts requiring feminist reconstruction rather than simple extension. Seyla Benhabib's work is central to this paper because it joins together concerns that elsewhere often remain separated: *the critique of the disembedded subject, the moral significance of reciprocity, the relation between rights and political membership, and the legitimacy of norms in culturally plural worlds.* Her work provides a way of thinking justice that neither abandons universality nor secures it through abstraction from lived social relations. Other femininst thinkers also come into discussion, Arendt clarifies the fragility of rights without effective political standing. Pateman and Okin expose the exclusions

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built into the neutral subject of justice. Fraser reveals why parity of participation matters a lot for feminist critique. Young uncovers the violence concealed in false neutrality and assimilationist equality. Nussbaum brings embodiment and substantive capability into the frame. Lastly, Cornell makes visible the symbolic and imaginative conditions of personhood. Benhabib remains central, an attempt is made to develop her framework through a wider feminist conversation.

This paper is not concerned with justice in the abstract. It is concerned with women's standing within cultural life and to articulate a framework in which rights and justice can speak to women's lives without either dissolving into relativism or reverting to the fiction of a neutral and disembedded subject. Feminist critique has shown that the moral and political subject of these traditions is often less universal than it appears. What presents itself as impartial reason has frequently depended upon a distinction between public autonomy and private dependency, with care, domestic labor, and embodied vulnerability relegated outside the official frame of justice. Benhabib's critique of the generalized other, together with feminist interventions by Pateman, Okin, and others, helps clarify why this structure cannot simply be inherited without revision. Justice, if it is to address women as equal subjects, must become answerable to the concrete conditions under which autonomy is made possible and unequally distributed.

This paper then turns to rights in a more explicit sense, especially through the relation between Hannah Arendt and Benhabib. Arendt's "right to have rights" remains indispensable because it shows that rights are fragile where one lacks effective membership in a political community. Rights are not self-executing possessions of an abstract individual; they depend upon a world in which one can appear as a legal and political person. Benhabib takes up this formulation but refuses to leave it confined within the bounded logic of sovereign membership. Her rereading of the right to have rights in The Rights of Others is central to this thesis because it allows rights to be understood not only as legal claims within a closed polity, but as demands of moral personhood that press against the exclusions of political community. Women have often been recognized as members while denied equal standing as claimants. The question of rights must therefore be tied not only to membership, but to the terms on which subjects enter moral and political life.

From there, the argument develops toward reciprocity, difference, and participatory justice. Benhabib's principles of universal moral respect and egalitarian reciprocity provide the main normative language here. These principles do not erase difference; they ask whether difference is organized under conditions of equal justificatory standing. Fraser's account of participatory parity strengthens this line of thought by insisting that justice requires institutional arrangements under which subjects can interact as peers. Young exposes the way false neutrality universalizes dominant perspectives and forces subordinated groups to appear as deviations from the norm. Nussbaum adds a different but complementary point: justice must concern not only status and participation, but the substantive capabilities required for a life worthy of human dignity. Together, these perspectives move the analysis beyond abstract equality toward a more demanding feminist understanding of justice.

This paper then returns to Benhabib in a more explicitly political register through The Rights of Others and Another Cosmopolitanism. These works address the tension between universal norms and historically bounded communities without collapsing into either statist closure or moral abstraction. Her notion of democratic iterations states that norms do not enter public life as fixed commands. They are reiterated, contested, and resignified in concrete political contexts. If women live under norms that define marriage, kinship, and cultural legitimacy, the justice of those norms cannot be assessed only by asking whether they are traditional or whether they are meaningful. One must ask whether those bound by the norms can contest and reinterpret them as equals. Justice therefore concerns not only inclusion within an order, but co-authorship of the order's meanings.

This is the point at which feminist reinterpretation becomes most explicit. A cultural practice cannot be judged just merely because it is coherent, longstanding, or symbolically respectful toward women. Nor can it be judged just merely because the law has recognized or codified it. The relevant question is whether the practice secures women's equal standing as subjects: whether it permits reciprocity, whether it protects the

conditions of personhood, whether it grants women authority in the interpretation of the norms governing their lives, and whether it remains open to contestation by those who live under it. This does not yet apply that framework directly to bride price. It establishes the terms on which such an application becomes possible. On that basis, one can take the case of bride price in Mizoram not simply as a cultural institution with internal meaning, but as a practice whose justice must be assessed in relation to reciprocity, equal standing, and the conditions of women's personhood.

Justice, the Subject of Rights, and Feminist Critique

The question of justice cannot be separated from the question of the subject in whose name justice is articulated. Theories of justice do not begin from nowhere. They presuppose a figure of the person: one who bears rights, enters relations of obligation, makes claims, and is capable of appearing before others as a participant in a shared moral and political world. Feminist critique has repeatedly shown that this figure has too often appeared as neutral only because the social and symbolic conditions of its formation were left unexamined. The issue, then, is not merely that women were historically excluded from the benefits of justice. It is that the very subject of rights and justice has often been theorized in ways that abstract from embodiment, dependency, domestic labor, and social vulnerability, while presenting that abstraction as universality. A feminist reinterpretation of justice must therefore begin by asking whether the subject of rights can still be conceived as a disembedded individual without remainder, or whether the language of rights must be reconstructed in light of the relations through which persons actually become social and political beings. The task of this section is not to reject rights, but to ask what sort of subject rights presuppose and whether that presupposition remains defensible after feminist critique.

Classical political philosophy offers an early and still influential version of the problem. In Aristotle, the sphere of justice belongs to the polis, the site of citizenship, deliberation, and reciprocal rule among those capable of political participation. The household, by contrast, is organized through relations treated as natural and asymmetrical: husband and wife, parent and child, master and slave. Aristotle's language is explicit. "Moreover, the relation of male to female is that of natural superior to natural inferior, and that of ruler to ruled."[1] Elsewhere he adds that while the woman has a deliberative element, it is "without authority."[2] The significance of these claims lies not only in their hierarchical content, but in the way they position hierarchy itself. Women's unequal standing is not represented as a problem for justice. It appears as part of the natural order from which political justice proceeds. Justice regulates life within the public sphere; it does not interrogate the prior sexual ordering that structures the relation between household and polis.

The political subject appears as though he could represent the human in general, while the gendered organization of dependency, authority, and social reproduction disappears into the nature of the household. In this sense, the classical subject of justice is not universal at all. It is a political subject produced through the prior depoliticization of women's subordination.

Kant's moral philosophy gives the subject of moral and political a new dignity by grounding obligation in rational autonomy rather than natural rank. In the Groundwork, persons count as ends in themselves because they are capable of self-legislation under universal law. As Kant formulates it, one must "act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means."[3] He further characterizes autonomy as "the idea of the will of every rational being as a will giving universal law."[4] This secures a language of equal moral worth that no longer depends upon civic rank, inherited status, or teleological place unlike that of Aristotle's. Yet the Kantian subject remains highly formal. The person appears above all as a rational being capable of acting on principles it can will universally. The moral point of view is achieved through abstraction from inclination, contingency, and particularity. Feminist criticism has not chiefly objected to the aspiration to universality here but the way this universality is achieved through a subject whose social and embodied conditions of autonomy remain unthematized.

This criticism becomes sharper in modern contractarian theories of justice, particularly Rawls. In A Theory of Justice, the original position is introduced as a hypothetical situation in which principles are chosen

under fair conditions rather than under the pressure of social advantage. Rawls emphasizes that the outcome should not be conditioned by "arbitrary contingencies" or by "the relative balance of social forces," and that the parties are to be represented as free and equal moral persons.[5] The force of the model lies in its aspiration to fairness through abstraction: persons are to choose principles without knowledge of their eventual place in society, their talents, or their conception of the good. Feminist criticism does not deny the moral seriousness of this aspiration. However, its objection is that the abstraction may be purchased at too high a cost. By bracketing the social relations through which persons are formed, the theory risks leaving insufficiently examined the structures of dependency, domestic labour, and family power that shape who can actually appear as a rights-bearing subject.

Susan Moller Okin's critique exposed this problem with force. In Justice, Gender, and the Family, she argues that any theory that excludes the family from the effective scope of justice leaves intact one of the principal institutions through which gender hierarchy is reproduced.[6] The family shapes education, self-respect, opportunity, domestic labor, care burdens, and the distribution of time and dependence. *Justice cannot therefore remain credible if it treats the family as pre-political or morally secondary*. Okin's point is not simply that women deserve fairer treatment within households. As she writes, "the family—currently the linchpin of the gender structure," and the sexual division of labour within it lies "at the very root of other significant concerns of justice."[7] It is that a theory of justice that isolates public institutions from domestic structures misdescribes the conditions under which persons become the kind of agents such theories presuppose. The bearer of rights does not appear already formed. That bearer is produced through relations and institutions whose justice cannot be assumed in advance.

Carole Pateman's intervention pushes the critique further by showing that contract theory may conceal rather than correct sexual hierarchy. In The Sexual Contract, she argues that the modern social contract narrative of freedom and equality depends upon a prior sexual settlement that secures men's access to women's bodies, labor, and service.[8] The liberal individual appears self-owning and independent because the gendered basis of that independence has already been privatized or naturalized. Pateman's argument does not abolishes rights discourse, it shows that the subject of rights can be historically constituted through relations of exclusion that the theory does not acknowledge as part of itself. A feminist reinterpretation of justice cannot therefore treat the rights-bearing subject as an innocent datum. It must ask what social contracts, visible and invisible, have produced that figure.

These feminist interventions expose the inadequacy of the neutral subject. However, they do not by themselves show how rights can be reconceived without either dissolving into pure social description or collapsing into a merely oppositional politics. This is where Benhabib becomes important. She does not reject universality, nor does she defend the disembedded subject of much modern theory. Her work reconstructs rights and justice through a situated, dialogical, and relational account of the self. She argues that the invisibility of women in dominant moral and political theory does not reveal a mere omission that can be corrected by later inclusion. It points, rather, to "categorial distortions" and an "epistemological deficit" within those theories themselves.[9]

The force of this claim lies in what it implies about the subject of justice. If theories of rights and justice systematically fail to account for women, then the problem does not lie only in the application of the theory. It lies in the categories through which the theory identifies the moral person in the first place. Benhabib traces this failure to a series of dichotomies—autonomy and dependence, public and private, justice and care, universal norm and concrete relation that have repeatedly structured moral and political thought.[10] The subject of rights appears as universal only because the *labor of sustaining embodied life, the affective work of care, and the asymmetries of domestic relation have been pushed to the margins of the theory.* A person constituted in abstraction from these conditions may function as a formal bearer of rights, but not as an adequate account of those to whom justice is owed.

Benhabib's critique matters because it remains reconstructive. She does not propose that feminist theory should abandon rights because rights emerged under exclusionary conditions. She argues instead that

the subject of rights must be rethought through a distinction between the generalized and the concrete other. The generalized other is the standpoint from which each person counts as a bearer of the same rights and duties. This standpoint remains indispensable. Without it, one loses the language of universal moral respect. Yet by itself it cannot individuate actual persons. The concrete other introduces what the generalized perspective leaves out: the other as a being with a history, identity, affective constitution, and socially situated life.[11] Justice becomes inadequate when it acknowledges persons only under the first description and neglects the second.

This alters what rights are taken to require. If the subject of rights is approached only as a generalized other, then legal and moral equality may remain formally intact while the lived conditions of unequal standing go unaddressed. Women may count in principle as rights-bearing subjects while the structures of dependency, labor, authority, and symbolic valuation that shape their existence remain outside the effective field of justice. Benhabib's insistence on the concrete other therefore radicalizes the language of rights. It does not abandon universality. *It denies that universality can be purchased at the price of abstraction from the actual lives of those whose equality is at stake.*

Her reconstruction becomes still more precise in the principles of universal moral respect and egalitarian reciprocity. Universal moral respect requires that every human being capable of speech and action be treated as a participant in moral conversation whose standpoint cannot be excluded in advance. Egalitarian reciprocity requires relations of symmetry and reversibility among members of the moral community, such that no one may claim for herself a moral status she denies to others.[12] These principles move beyond the mere possession of claims. Rights are no longer understood simply as legal holdings attached to isolated individuals. They become part of a moral and political relation among subjects who must be able to justify norms to one another as equals. The bearer of rights is therefore not a pre-social chooser. She is a participant in a justificatory community whose legitimacy depends on whether all affected can, in principle, contest and reinterpret the norms under which they live.

This shift has important consequences because if justice is understood through Benhabib's reconstruction, then one can no longer be satisfied with saying that women have been granted rights or that women are included within a normative order. One must ask whether women stand within that order as concrete others whose perspectives can enter the public interpretation of norms with equal force. This question matters especially in cultural contexts where women may be symbolically recognized while their authority remains mediated through male kinship structures, religious authority, or customary expectations. Rights, on this account, do not become irrelevant within culture. They become the means through which one asks whether culture has organized standing reciprocally or asymmetrically.

Rights, Membership, and Women's Equal Moral Standing

Arendt's formulation of "the right to have rights" emerges from the catastrophe of statelessness. In The Origins of Totalitarianism, she argues that the decisive deprivation suffered by the stateless is not merely the loss of this or that particular liberty. It is the loss of a place in the world where one's opinions and actions matter. Arendt argues that the calamity of the stateless is not simply that they lose this or that specific right, but that they lose "the right to have rights," that is, the right to belong to an organized political community where one's actions and opinions matter.[13] This formulation reveals that rights are not self-executing possessions of an abstract human subject. They require a world in which one can appear as a legal and political person. The abstract proclamation of human rights proves fragile where there is no political world willing and able to recognize the subject as one entitled to make claims. Arendt's argument therefore does not deny the moral force of rights language; it reveals its dependence on a world of political recognition and institutional standing.

The force of this point becomes clearer if one distinguishes between the formal universality of rights and the actual conditions of legal personhood. A declaration can say that all human beings possess rights by virtue of their humanity. Yet a person who has lost political membership, institutional recognition, and a place

of appearance in common life cannot rely on that declaration in any effective sense. Rights then remain conceptually universal but practically suspended. Arendt does not solve this tension by offering a more expansive list of rights. She exposes the dependence of rights upon worldliness, membership, and a space of appearance. The problem is not simply juridical. It concerns the conditions under which a human being counts as someone who can enter the public world as a bearer of claims.

For feminist theory, the importance of Arendt's insight lies in its extension beyond statelessness in the narrow sense. Women have often possessed a place within community while lacking the kind of standing that makes rights fully effective. They may be included as daughters, wives, mothers, and members of a social order while still being denied the authority to appear as equal claimants before that order. This is why the problem of rights cannot be reduced to formal membership. Arendt's insight therefore reaches beyond refugee status. It clarifies why legal inclusion by itself does not secure equal moral and political personhood.

At the same time, Arendt's formulation remains tied to the political community as the site in which rights become real. This is the point at which Benhabib intervenes. She takes up Arendt's insight in The Rights of Others but resists confining it to membership in a bounded polity. Benhabib distinguishes between two senses of the phrase "the right to have rights." In its first sense, it names a moral claim to membership: the demand that all human beings be recognized as belonging to some human group and as entitled to its protection. In its second, juridico-civil sense, rights arise within an organized political and legal community and generate reciprocal obligations among those already recognized as members.[14] Read in this way, Benhabib's reformulation shows that the moral claim to rights cannot be exhausted by existing borders of membership, even though effective juridico-civil rights still depend upon organized legal and political communities. This distinction is especially important for feminist theory because women may be socially included within a community and yet not stand within it as full juridico-political claimants in their own name. The issue is therefore not only whether women belong, but whether their belonging issues in the kind of standing from which enforceable claims, reciprocal obligations, and public contestation become possible.

This move allows rights to be understood neither as metaphysical possessions nor as mere functions of sovereign membership. Benhabib distinguishes between a first, moral sense of the right to have rights as "a moral claim to membership" and a second, juridico-civil sense in which "rights discourse takes place among the consociates of a community."[15] At the same time, she insists that "the tension between universal human rights claims, and particularistic cultural and national identities, is constitutive of democratic legitimacy."[16] Rights therefore require political institutionalization, but they are "not exhausted, either in their validity or in their content, through their embodiment in specific cultural and legal traditions alone."[17]

This reconstruction has direct feminist implications. Women's subordination has often been sustained precisely through the gap between abstract inclusion and effective standing. A woman may be counted as belonging to the community and even protected in some legal respects while the institutional and symbolic order continues to deny her equal authority as a claimant. Benhabib's examples make clear that formal inclusion and effective standing do not coincide. In her discussion of Arendt's "right to have rights," she points to denaturalized groups such as Jews in Germany, Greeks and Armenians in the early Turkish republic, and German refugees in Vichy France, all of whom remained human beings in the abstract while losing the legal and political standing that made rights effective. She makes a related point in her discussion of foreigners and resident aliens: a polity may admit persons into its social world and still deny them any genuine path to equal membership.[18] Benhabib's reframing of the right to have rights makes visible why this matters. What is at stake is not simply possession of legal status, but recognition as a person entitled to shape, question, and invoke the norms governing her life. A woman who is socially acknowledged only through male kinship structures, household roles, or community-defined virtue does not yet stand as a full rights-bearing subject in the stronger sense Benhabib's framework requires.

The argument becomes sharper when Benhabib distinguishes between mere inclusion and democratic legitimacy. In The Rights of Others, she insists that democratic closure and universal right exist in a constitutive tension.[19] Every democratic polity draws boundaries around who counts as a member, yet the

claims of right continually unsettle those closures by appealing to norms that exceed the existing demos. This matters because legitimacy cannot be reduced to the will of those already counted. A political community may be procedurally ordered and still remain unjust if its boundaries or internal arrangements deny some persons effective standing. Rights, then, are not simply distributive goods held by members. They are part of the normative structure through which the legitimacy of membership and exclusion itself becomes contestable.

Benhabib's formulation of universal moral respect and egalitarian reciprocity clarifies the same point from another direction. In Situating the Self, Benhabib formulates two related principles: universal moral respect, which requires that we respect one another as beings "whose standpoint is worthy of equal consideration," and egalitarian reciprocity, which requires that we enhance one another's capacity to express that standpoint by "creating, whenever possible, social practices embodying the discursive ideal."[20] The significance of these principles for rights is considerable. Rights are not merely claims held against the state. They are expressions of a relation among persons who owe one another equal regard and reciprocal justifiability. A rights order fails where some are protected without being treated as equal interlocutors. Formal inclusion without reciprocity leaves rights thin because it preserves the status of the subject as a governed object rather than a co-author of the normative order.

This is the precise point at which Benhabib's work moves beyond Arendt while preserving what is most valuable in her. Arendt shows that rights require a world of political appearance. Benhabib adds that such a world is normatively deficient unless it is organized by reciprocal justification. The right to have rights does not mean only the right to belong; it also means the right to be recognized as one whose standpoint has equal moral significance. This addition is indispensable for a feminist reinterpretation of rights. Women have often belonged without speaking, appeared without authoring, and been protected without reciprocally shaping the norms that protected them. Benhabib's reconstruction reveals why such conditions are insufficient.

The relation between rights and reciprocity also helps explain why women's subordination cannot be measured only by explicit exclusion. A woman may have formal access to rights while still being positioned as secondary in the household, in the interpretation of marriage norms, in inheritance, in decision-making over children, or in the public credibility of her claims. If rights are conceived only as legal possessions, such asymmetries may look like unfortunate social residues surrounding an otherwise just order. Benhabib's framework makes a different judgment possible. Where reciprocity is absent, the moral standing of the subject is impaired even if legal forms remain in place. A rights-bearing subject, in the fuller sense, is not only one to whom rules apply, but one who can stand within the space of justification as an equal.

This is one reason Benhabib's reading of Arendt is especially productive for the present thesis. It helps explain why women's legal standing cannot be assessed apart from the cultural and institutional contexts in which norms are lived. If women are subject to norms that define marriage, kinship, authority, and respectability, then the justice of those norms depends not only on whether women are formally protected under them, but on whether women can appear as claimants in relation to them. The question of rights therefore extends into the interpretation of culture. A cultural order may recognize women as essential to communal life and still fail to recognize them as equal legal and moral subjects if the terms of appearance remain mediated through subordinate roles.

Fraser sharpens this point by arguing that misrecognition is not simply injury to identity, but "social subordination in the sense of being prevented from participating as a peer in social life."[21] If women are denied that standing, then the problem of rights cannot be restricted to formal possession. Status subordination interferes with the effective exercise and interpretation of rights. Fraser thus shows with precision how standing is blocked at the level of social interaction and institutionalized value. Benhabib takes the argument further by asking whether the norms governing such arrangements can be justified to those who live under them as equal and concrete others. Rights therefore cannot be reduced to social status alone, even equal standing as a full partner is indispensable to their realization.

This becomes particularly relevant in legal reform. A legal order may modernize procedure, specify remedies, and extend nominal protections while leaving unresolved the deeper question of women's equal standing as claimants. A useful example is the debate surrounding personal law reform in India, especially the Shah Bano case and its aftermath. The issue there was not simply whether a woman could be granted maintenance in a formal legal sense, but whether women could appear as equal claimants within a normative order still structured by gendered authority and community-based interpretation.[22] The significance of the case lies in showing that legal recognition by itself does not settle the question of justice in Benhabib's stronger sense. One must still ask whether the norms governing family life can be justified to women as equal participants rather than merely administered on their behalf. Formal remedies may exist, yet women's standing as interpreters, claimants, and co-authors of the norms that bind them may remain incomplete.[23]

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